

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PRENTICE RAY THOMAS,

Plaintiff,

v.

B. WEAVER, et al.,

Defendants.

Case No. 1:22-cv-01492-ADA-BAM

ORDER DENYING REQUEST FOR  
APPOINTMENT OF COUNSEL WITHOUT  
PREJUDICE

(Doc. 16)

Plaintiff Prentice Ray Thomas, a county jail inmate proceeding *pro se* and *in forma pauperis*, initiated this civil rights action on November 18, 2022. (Doc. 1.) Currently before the Court is Plaintiff's motion for appointment of counsel. Plaintiff requests counsel due to his dyslexia, asserting that "it stands in the way of" him articulating his claims. (Doc. 16.)

Plaintiff does not have the constitutional right to appointment of counsel in a civil action. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) ("Generally, a person has no right to counsel in civil actions."); *see also Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *rev'd in part on other grounds*, 154 F.3d 952, 954 n.1 (9th Cir. 1998). The Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. §1915(e)(1). *Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). *Palmer*, 560 F.3d at 970; *Rand*, 113 F.3d at 1525. Without a reasonable method of securing and

1 compensating counsel, the Court will seek volunteer counsel only in the most serious and  
2 exceptional cases. In determining whether “exceptional circumstances exist, a court must consider  
3 the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims  
4 *pro se* in light of the complexity of the legal issues involved.” *Palmer*, 560 F.3d at 970 (internal  
5 quotation marks and citations omitted).

6 Here, the Court does not find the required exceptional circumstances. At this stage in the  
7 proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on the  
8 merits. Plaintiff has been unable to cure the pleading deficiencies previously identified by the  
9 Court. Further, there is no indication from the record that Plaintiff is unable to articulate his  
10 claims *pro se* despite his reported condition. If Plaintiff requires additional time to comply with  
11 Court deadlines due to his dyslexia, he may request appropriate extensions of time. Accordingly,  
12 Plaintiff’s request for the appointment of counsel is DENIED without prejudice.

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14 IT IS SO ORDERED.

15 Dated: February 3, 2023

16 /s/ Barbara A. McAuliffe  
17 UNITED STATES MAGISTRATE JUDGE  
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